

contract schools up to the level required by the applicable standards established under section 1121 of Pub. L. 95-561, 25 U.S.C. 2001.

#### **§ 36.61 Waivers and revisions.**

(a) The tribal governing body, or the local school board if so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standard(s) established in this part, where the standard(s) is deemed by such body to be inappropriate and shall also have the authority to revise such standard(s) to take into account the specific needs of the tribe's children. This includes Bureau-operated schools. When the tribal governing body, or local school board if so designated by the tribal governing body, waives the standard(s) or part thereof, it shall within 60 days submit revised standard(s) to the Assistant Secretary for approval. In the interim between the waiver of the standard(s) and the approval of the revised standard(s), the standards of this part or minimum state standards shall apply to the affected school(s). In the notice of the waiver, the tribal governing body or its designee shall state whether the standards in this part or the minimum state standards apply to the affected school(s) for such interim period. The Assistant Secretary shall respond to the revised standard(s) within 45 days of receipt. Revised standard(s) shall be established by the Assistant Secretary unless specifically rejected by the Assistant Secretary for good cause and in writing. The written notice of rejection shall be sent to the affected tribe(s) and local school board. Such rejection shall be final. All revised standards shall be submitted to the Assistant Secretary in writing and will adhere to the following procedure:

(1) Waivers and revisions shall be submitted by November 15 each school year to accompany the school's annual standards compliance report as required by § 36.60(b).

(2) The section or part of the standard to be waived must be specified, and the extent to which it is to be deviated from shall be described.

(3) A justification shall be included with a revised standard, which explains

why the alternative standard is considered necessary.

(4) Measurable objectives of the alternative standard(s), the method of achieving the alternative standard(s), and the estimated cost of implementation must be stated.

(b) The Assistant Secretary shall assist the school board of an Indian-controlled contract school in the implementation of the standards established under this part if the school board requests that these standards, in part or in whole, be implemented. At the request of an Indian-controlled contract school board, the Assistant Secretary shall provide alternative or modified standards to those established in this part to take into account the needs of the Indian children and the Indian-controlled contract school.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61766, Dec. 1, 1994]

### **Subpart H—National Dormitory Criteria**

#### **§ 36.70 Scope of subpart.**

This subpart contains the criteria and mandatory requirements for all dormitories. The individual employee responsibilities, based on the terminology used to designate specific employee positions and their assigned responsibilities, may vary depending upon whether the dormitory is a direct Bureau operation or contract operation.

#### **§ 36.71 General provisions.**

(a) The Homeliving Specialist is the administrative head of the dormitory who shall have sufficient autonomy and authority to ensure the successful functioning of all phases of the dormitory program, and, in dormitories attached to a school, shall report to the school supervisor.

(b) In situations where a Bureau-funded dormitory is maintained, operated, and administered separately from the academic program, this dormitory will ensure access to or provide a guidance program equal to the standards as those under § 36.42 of this part.

(c) Students who qualify for residential services under the Exceptional

Child Program must have, in their individualized education plan, objectives that are to be met in the homeliving program. Documentation to support completion of these objectives is required.

(d) Dormitories with intense residential guidance programs shall have updated written descriptions of the programs with stated purposes, objectives, activities, staffing, and evaluation system. Each student diagnosed as being in need of intense guidance services shall have a file which contains the following:

(1) Documentation of eligibility according to the definition contained under 25 CFR 39.11(h);

(2) Documentation of a diagnosis of the student's needs;

(3) A placement decision signed by a minimum of three (3) staff members;

(4) An individualized treatment plan which includes:

(i) Referral date and referral sources;

(ii) Diagnosis identifying specific needs;

(iii) Specific goals and objectives to be met;

(iv) Record of specific services including beginning and ending dates;

(v) Designation of responsible staff person(s); and

(vi) A means by which the student's progress and the effectiveness of the individualized treatment plan can be periodically reviewed and reevaluated.

(e) Each dormitory program that does not have an academic program under subpart C shall make available career counseling information on educational and occupational opportunities and help students assess their aptitudes and interests. This shall be done on a continuing basis, beginning at the elementary level.

(f) Counseling services shall be made available for students during non-academic hours.

(g) Provisions shall be made to interpret to staff, students, and parents the administrative policies and practices of the dormitory. This provision shall be made in the form of a manual, handbook, brochure, or other written document that will be made available and explained to all who are interested. The topics shall include, but not be limited to, the following:

(1) Statement of philosophy and goals;

(2) Description of how policies are developed and administered; and

(3) A copy of the student rights handbook.

(h) Program will be designed and orientation programs implemented to facilitate the pupils' transition from elementary to middle school and from middle to high school, where appropriate.

(i) All dormitories shall provide and maintain a well-balanced student activities program based on assessment of both student and program needs. Programs shall provide opportunities for student participation in, but not limited to, activities that include special interest clubs, physical activities, student government, and cultural affairs. In addition, the following provisions shall be adhered to:

(1) Dormitories shall plan and provide for an intramural program that includes a variety of scholastic and sport activities.

(2) A plan of operation shall be submitted by each activity at the beginning of each school year to the school supervisor and approved by the school board. The plan shall include the purpose, structure, and coordination of all activities.

(3) All dormitories conducting fund-raising activities are required to establish a school/student activity bank account following school/student banking procedures outlined under 25 CFR §31.7. All accounts shall be audited annually.

#### **§ 36.72 Elementary level dormitories.**

(a) Each dormitory program shall provide or have access to the services of a qualified counselor who holds a valid counselor certificate and has training and experience in dealing with elementary students.

(b) Counselors may be assigned minimal or temporary school supervisory duties. A school supervisor shall not serve in the capacity of counselor while holding the position of school supervisor.

(c) The dormitory program shall have the following ratios (ADM) for counselors:

Less than 75 students: ½ time counselor